

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KEYWANIE S BRIDGEWATER,

CASE NO. 2:23-cv-01075-TL

Plaintiff,

ORDER OF DISMISSAL WITH LEAVE TO AMEND

ZACH SCHMITZ et al.,

Defendants.

This matter is before the Court on its own motion. On July 17, 2023, Plaintiff filed a proposed complaint but failed to pay the required filing fee. Dkt. No. 1, *see also* Dkt. No. 4 (Notice of Filing Deficiency). Plaintiff then filed an application to proceed *in forma pauperis* (“IFP”). Dkt. No. 5. Plaintiff’s application for IFP status was granted, but U.S. Magistrate Judge Brian A. Tsuchida recommended review of the proposed complaint under 28 U.S.C. § 1915. Dkt. No. 6. The Complaint was entered on the docket on August 21, 2023. Dkt. No. 7. Having reviewed Plaintiff’s Complaint, the Court finds that Plaintiff fails to state a claim upon which

1 relief may be granted. The Court therefore DISMISSES WITHOUT PREJUDICE Plaintiff's Complaint
 2 with leave to file an amended complaint.

3 The Court's authority to grant IFP status derives from 28 U.S.C. § 1915. Upon permitting
 4 a plaintiff to proceed *in forma pauperis*, the Court is subject to the requirements set forth under
 5 28 U.S.C. § 1915(e)(2)(B). Among these requirements is the Court's duty to dismiss the case if
 6 the Court determines that the Plaintiff fails to state a claim upon which relief may be granted. *See*
 7 28 U.S.C. § 1915(e)(2)(B)(ii); *see also Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000)
 8 (“[S]ection 1915(e) applies to all in forma pauperis complaints, not just those filed by
 9 prisoners”). A complaint must include “a short and plain statement of the claim showing that the
 10 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). “The legal standard for dismissing a
 11 complaint for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii) is the same as when
 12 ruling on dismissal under Federal Rule of Civil Procedure 12(b)(6).” *Day v. Florida*, 2014 WL
 13 1412302, at *4 (W.D. Wash. Apr. 10, 2014) (citing *Lopez*, 203 F.3d at 1129). Rule 12(b)(6)
 14 requires courts to assume the truth of factual allegations and credit all reasonable inferences
 15 arising from those allegations. *Sanders v. Brown*, 504 F.3d 903, 910 (9th Cir. 2007). Plaintiff
 16 must plead factual allegations that “state a claim to relief that is plausible on its face.” *Bell Atl.*
 17 *Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Where a plaintiff proceeds *pro se*, courts must
 18 construe the complaint liberally. *Johnson v. Lucent Techs. Inc.*, 653 F.3d 1000, 1011 (9th Cir.
 19 2011) (citing *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010)). However, a court “should not
 20 supply essential elements of the [*pro se*] claim that were not initially pled.” *E.g., Henderson v.*
 21 *Anderson*, 2019 WL 3996859, at *1 (W.D. Wash. Aug. 23, 2019) (internal citation and quotation
 22 omitted); *see also Khalid v. Microsoft Corp.*, 409 F. Supp. 3d 1023, 1031 (W.D. Wash. 2019)
 23 (“[C]ourts should not have to serve as advocates for *pro se* litigants.” (quoting *Noll v. Carlson*,
 24 809 F.2d 1446, 1448 (9th Cir. 1987))).

1 As an initial matter, the Court notes that Plaintiff's handwritten Complaint is almost
 2 entirely illegible. *See* Dkt. No. 7. The Complaint is prepared using the form provided by the U.S.
 3 District Court for the Western District of Washington for cases involving civil rights claims
 4 under 42 U.S.C. § 1983. *Id.* The Compliant also appears to involve claims against a member of
 5 the Woodinville Police Department named Zach Schmitz, and an individual named James
 6 Lamille (or possibly James L. Miller). *Id.* at 2. Beyond that, the Court is unable to determine
 7 whether Plaintiff has made any factual allegations sufficient to state a claim under 42 U.S.C.
 8 § 1983, or any other claim for which it may assert subject matter jurisdiction. "Federal courts are
 9 courts of limited jurisdiction, having the power to hear certain cases only as the Constitution and
 10 federal law authorize." *Newtok Vill. v. Patrick*, 21 F.4th 608, 615 (9th Cir. 2021); *accord*
 11 *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). For this reason, the Court
 12 must dismiss the Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

13 Courts will typically allow *pro se* plaintiffs to amend their complaints in lieu of dismissal
 14 unless amendment would be futile. *Yagman v. Garcetti*, 852 F.3d 859, 867 (9th Cir. 2017). Here,
 15 the Court is unable to determine whether Plaintiff's claims are futile from the face of the
 16 Complaint because the Complaint is unreadable. The Court also takes notice of the fact that
 17 Plaintiff previously filed a similarly deficient complaint in a separate case in which she
 18 previously named Zack Schmitz and James Miller as defendants. *See Bridgewater v. Schmitz et*
 19 *al.*, No. C23-0964, Dkt. No. 5 at 2. In that case, she was granted leave to amend but failed to do
 20 so, and that case was dismissed for failure to state a claim. *Id.* at Dkt. Nos. 1, 6–7. That said, the
 21 Court will GRANT Plaintiff leave to file an amended complaint in this case that legibly states a
 22 plausible claim for relief by no later than **Friday, September 29, 2023**. If Plaintiff fails to file an
 23 amended complaint by the deadline, fails to state a plausible claim for relief, or fails to present
 24 an amended complaint that is sufficiently legible for the Court to ascertain the underlying factual

1 allegations and jurisdictional grounds for the relief sought, the Court will dismiss this case in its
2 entirety.

3 Dated this 29th day of August 2023.

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6 Tana Lin
United States District Judge

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